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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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06/15/2006

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7647

29127 7590 05/14/2009
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EXAMINER

NELSON, MATTHEW M

ART UNIT

PAPER NUMBER

3732

MAIL DATE

DELIVERY MODE

05/14/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Continuation of Disposition of Claims: Claims pending in the application are 5-8,12-15,17-20,23-25,29,31,35-37,44-48,62-67,75-85,87,89-97,99,101-103,108,109,111,112 and 116.

Continuation of Disposition of Claims: Claims subject to restriction and/or election requirement are 5-8,12-15,17-20,23-25,29,31,35-37,44-48,62-67,75-85,87,89-97,99,101-103,108,109,111,112 and 116.

DETAILED ACTION

1. Upon further consideration of the claims and specification, a new restriction requirement follows.

Election/Restrictions

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 5-8, 116, drawn to a method for tooth rejuvenation.

Group II, claim(s) 12-15, drawn to a method for tooth rejuvenation.

Group III, claim(s) 17-20, 23-25, 97, drawn to a method for tooth rejuvenation.

Group IV, claim(s) 101-103, drawn to a method.

Group V, claim(s), 29, 31, drawn to a tooth rejuvenating composition.

Group VI, claim(s) 35-37, drawn to a tooth rejuvenating article of manufacture.

Group VII, claim(s) 44, drawn to an apparatus for rejuvenating hard tissue.

Group VIII, claim(s) 45-48, drawn to an apparatus for rejuvenating teeth.

Group IX, claim(s) 99, drawn to an apparatus.

Group X, claim(s) 62-67, 75-85, 87, 89-93, 94-96, drawn to a method for hard tissue modification.

Group XI, claim(s) 108-109, 111-112, drawn to a hand piece with heater.

3. The inventions listed as Groups I-XI do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or

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corresponding special technical features for the following reasons: The common feature shared amongst some of the groups is an aqueous solution with edible acids and a given pH. Jensen et al. (US 6,309,625) shows applying a layer of composition comprising an aqueous solution (col. 8, lines 34-47) of one or more edible acids (col. 9, lines 55-67), such as citric acid, wherein the composition has a pH selected from the range of about 0.5 to 5 (col. 3, line 66 - col. 4, line 11), and the composition may not contain peroxide (peroxide shown as optional; col. 2, lines 38-53), and is applied at temperature between 37 and 60 degrees celsius (is applied to the teeth which are near body temperature). These groups therefore lack the same or corresponding special technical features *a posteriori*.

4. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

6. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise

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require all the limitations of the allowable product claim will be considered for rejoinder.

All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew M. Nelson whose telephone number is (571)

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270-5898. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MMN/

/Cris L. Rodriguez/
Supervisory Patent Examiner, Art Unit 3732